

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE BLUE CROSS BLUE SHIELD	:
ANTITRUST LITIGATION	: Master File 2:13-cv-20000-RDP
MDL 2406	:
	: This document relates to
	: Subscriber Track cases
	:

**SUBSCRIBER PLAINTIFFS' STATUS REPORT
ON OUTSTANDING STRUCTURED DATA**

Come now Subscriber Plaintiffs in the above-styled action and respectfully submit this status report on outstanding structured data issues and productions to ensure this Court remains informed of these matters, given the December 1, 2017 discovery cut-off pursuant to the Third Amended Scheduling Order (Doc. 1567).

Subscribers have made substantial efforts to work with each of the Defendants with outstanding structured data to resolve any production issues and to obtain the remaining outstanding productions. For months prior to Subscribers' Motion, Subscribers sent out letters and conducted meet and confers with all Defendants who have not produced structured data or with whom there are production issues.

Since that time, Subscribers have requested that all outstanding issues be addressed as soon as possible and that all productions be received as soon as possible, and prior to the Thanksgiving holiday, to allow Subscriber the

opportunity to address any production issues or insufficiencies prior to the December 1, 2017 deadline.

Non-Parties Structured Data

Humana

Humana is in process of completing its production by replacing documents that were corrupted in the initial production.

United

United has not produced a complete set of documents that list the plans and pricing schedules available in the individual segment. Subscribers are working with United to identify documents that would satisfy this request.

Subscribers have also posed questions regarding United's existing production and a request for an additional group-level claims field that was previously requested, but not provided.

Viva

Subscribers have posed questions regarding Viva's existing production and requests for a supplemental claims-related facility field.

Optum

The production of Optum's archived (pre-2010) data is expected, but still has not been produced.

Non-Claims Structured Data

Anthem

Since Anthem's production after the issuance of Discovery Order No. 56, Subscribers have been working with Anthem to investigate certain observations that Subscribers have made with respect to Anthem's premium data and Total Claims Expense data. Subscribers requested a date certain for any additional data productions, to the extent they are necessary to address these observations, prior to the December 1, 2017 discovery cut-off. Anthem has agreed to produce certain group data by November 20, 2017 in order to address certain of Subscribers' data observations. Anthem's investigation into other areas is ongoing. Accordingly, Anthem has not determined whether the observations need to be addressed. Subscribers and Anthem are continuing to work cooperatively to resolve any issues before the discovery cut-off.

Cambia

Throughout October 2017, Subscribers have been working with Cambia to investigate certain observations that Subscribers have made with respect to Cambia's premium data and Total Claims Expense data (17e). Subscribers requested a date certain for any additional data productions, to the extent they are necessary to address these observations, prior to the December 1, 2017 discovery cut-off. In at least one case Cambia has determined and explained to Subscribers

that their observation did not indicate any issue with the data. Cambia's investigation into other areas is ongoing; accordingly, Cambia has not determined whether the observations need to be addressed. Subscribers and Cambia are continuing to work cooperatively to resolve any issues before the discovery cut-off.

BCBSFL

Since July, BCBSFL has been attempting to provide capitation data in accordance with Subscribers' request that all plans abide by Discovery Order 56. Because BCBSFL does not maintain its capitation data in the format requested in the ordinary course of business, BCBSFL has had to work through difficult technical issues to provide the data in an acceptable format. That work is ongoing. Subscribers requested a date certain for any outstanding data productions, prior to the December 1, 2017 discovery cut-off. BCBSFL has not yet been able to provide a date certain but believes that the data will be ready prior to the discovery cut-off.

BCBSKC

Since September of 2017, Subscribers identified and discussed with BCBSKC issues encountered with BCBSKC's Total Claims Expense data and groups that were "not active" at the time of data extraction; however, BCBSKC counsel represents that although BCBSKC has encountered some technical

complications in pulling the data, BCBSKC currently believes replacement files will be provided by the end of next week.

BCBSTN

Subscribers have notified BCBSTN that its non-claims data production is missing a significant portion of benefit design information. Subscribers have requested a date certain for any solution or replacement data productions, prior to the December 1, 2017 discovery cut-off.

CareFirst

For the past few months, Subscribers have been working with CareFirst to obtain production of Total Claims Expense data. On October 30, 2017, CareFirst produced Total Claims Expense data that the Subscribers are currently investigating.

Premera

Since September, Subscribers have requested replacement productions with identifiers for year, month, and group, and product and production of annual, group-level Total Claims Expense data. Subscribers also require further guidance for some aspects of Premera's premiums production. According to counsel, Premera will produce these data prior to Thanksgiving and is still investigating the premium data issues.

Excellus

Since August of 2017, Subscribers have been working with Excellus' counsel to resolve capitation issues with Excellus' Total Claims Expense. Excellus has agreed to provide additional files and estimates the work will take two weeks.

Triple S Salud

To date, Subscribers have not received non-claims structured data crosswalks to Appendix D or any structured data productions. On numerous occasions going back to February of this year, Subscribers have reached out to ascertain the status of the non-claims structured data productions.

Triple S Salud filed a notice with this Court on September 27, 2017, stating that, due to Hurricane Maria, the office operations are severely limited. (Doc. 1581). On November 2, 2017, counsel for TSS stated that the structured data crosswalks are almost complete. Subscribers continue to work with TSS and pursue these data prior to the December 1, 2017 discovery cut-off.

USAbile

On November 2, 2017, USAbile provided two files to assist Subscribers in identifying small versus large groups. Subscribers are reviewing these files to determine if this solution will resolve this outstanding issue.

BCBSAL Structured Data

In response to Subscribers' October 12, 2017 Motion to Compel BCBSAL, on October 31, 2017 Judge Putnam issued Order No. 74 requiring BCBSAL to provide deciphering of the Coverage Code data and that the parties will need to meet and confer to a find resolution if the Coverage Code data do not provide what is needed. (Doc. 1659). On November 2, 2017, BCBSAL provided a list containing descriptions for certain coverage codes and these descriptions do not identify the specific plan characteristics Subscribers are seeking (e.g., deductible amounts). BCBSAL counsel acknowledged this when transmitting the list stating they “do not believe this provides the benefit plan design details [Subscribers] are seeking.” The parties are preparing to meet and confer, as directed by this Court.

Additionally, Subscribers requested historical data to be extracted from a table which contains full time employee count data. Upon inspection of this file, it is evident that only one observation exists for each group and division and any historical information is omitted. Subscribers ask BCBSAL to produce any historical information from this table as well. Counsel for both parties discussed the issues on October 19, 2017 and counsel for BCBSAL promised a response by Tuesday, October 24, 2017. As of this filing, Subscribers have not received a response or additional productions.

Conclusion

The Court's Discovery Orders and Scheduling Orders require that structured data productions be concluded. While the majority of the initial productions of non-claims structured data have been made, analysis of the data, as it is produced or supplemented, continues to raise several issues that need to be addressed. While all of these issues have been raised with the producing party to the extent that they have been revealed in the analysis, there remain several issues that must be resolved and for which Subscriber Plaintiffs will seek the Court's assistance at the telephone conferences scheduled between now and the December 1, 2017 cut-off.

Each of the parties is already aware of any issues with their data, and Subscribers will work with them to resolve these issues and notify the Court via weekly status reports until all issues are resolved and all productions received and reviewed for apparent errors.

Respectfully submitted the 3rd day of November, 2017.

/s/ Christopher T. Hellums

Christopher T. Hellums – ***Local
Facilitating Counsel for Subscriber
Plaintiffs***
PITTMAN, DUTTON & HELLUMS,
P.C.

2001 Park Place N, 1100 Park Place
Tower

Birmingham, AL 35203

Tel: (205) 322-8880

Fax: (205) 328-2711

chrish@pittmandutton.com

David Boies – ***Co-Lead Counsel***
BOIES, SCHILLER & FLEXNER LLP

333 Main Street

Armonk, NY 10504

Tel: (914) 749-8200

Fax: (914) 749-8200

dboies@bsfllp.com

Michael Hausfeld – ***Co-Lead Counsel***
HAUSFELD LLP

1700 K Street NW, Suite 650

Washington, DC 20006

Tel: (202) 540-7200

Fax: (202) 540-7201

mhausfeld@hausfeldllp.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record via CM/ECF.

This 3rd day of November, 2017.

/s/ Christopher T. Hellums

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***Local Facilitating Counsel for Subscriber
Plaintiffs***